

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-000204

08/09/2013

HONORABLE SUSAN M. BRNOVICH

CLERK OF THE COURT

Y. Gano

Deputy

IN RE THE MATTER OF
KRISTY ANN WALTMAN

JAMES J SYME JR.

AND

AARON GILBERT WALTMAN

JOHN R GAERTNER JR.

DR BRIAN YEE
7220 N 16TH ST BLDG K
PHOENIX AZ 85020

NOTICE TO PETITIONER/RESPONDENT: If you have a protected address, you must contact the person appointed below and provide contact information within 10 days of the date of this minute entry.

APPOINTMENT OF A BEHAVIORAL HEALTH PROFESSIONAL

IT IS ORDERED appointing the following Behavioral Health Professional to conduct a Focused Assessment in this case:

**Dr. Brian Yee
7220 N. 16th Street, Bldg. K
Phoenix, AZ 85020
602-343-0447**

1. Scope.

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Focused Assessments (FAs) typically involve 6-12 hours of professional services. Fewer and more narrowly defined issues are investigated in FAs. The evaluator limits the amount of time available to family members to present their concerns and what documents are accepted for review. Psychological tests are not administered typically. The number of collateral witnesses is restricted. The FA report is issue specific. If appointed to conduct an FA and the evaluator concludes the issues are beyond the scope of an FA, the evaluator advises the Court and seeks clarification of the appointment. **In this case, psychological testing may be necessary and the assessment should be expanded to include any testing the evaluator deems necessary.** The Behavioral Health Professional shall address the following:

- a) Based on an assessment of Mother's mental health, including concerns about emotional modulation , and Father's mental health, including allegations about sexual addiction and past abuse, does the evaluator have concerns about either parents' mental health and the potential risk to the children's best interests?
- b) Based on the assessment, what recommendations are appropriate with regard to Father having expanded parenting time, including time with the children in Oregon?

2. Timely Written Report. The evaluator shall prepare a written report no later than 14 days prior to the next scheduled hearing. The report shall be delivered to the Court and counsel, or the parties, if self-represented, unless the evaluator asserts extraordinary circumstances, such as imminent life threat or the potential for serious harm to a person related to the case. In that event, the Court shall make a ruling regarding dissemination of the report. The acceptance of this appointment by the evaluator indicates a capability of completing a written report in a timely manner and the ability to appear and testify in court upon reasonable notice.

3. Initial Contact. Counsel for both parties, or the parties, if self-represented, shall make the initial contact with the evaluator through a joint conference or conference call within 10 days of receipt of this order. The initial conference with the evaluator shall be used to summarize the issues present in this case, to arrange for the initial appointments of the persons the evaluator wishes to examine, and to allow the evaluator to request information he or she believes to be pertinent.

4. Authority of Evaluator/Cooperation By Parties/Waiver of Confidentiality. The evaluator shall have the following authority with regard to the minor children and family members:

- a. The evaluator shall serve as an expert for the court in order to provide data and opinions relevant to the care of, legal decision-making for and parenting time

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with the minor child in this case pursuant to applicable Arizona statutes and case law.

- b. The evaluator shall have reasonable access to the children and family members with reasonable notice; and shall have reasonable notice of any and all judicial proceedings including requests for any examination affecting the children and shall be provided copies of all minute entries, orders and pleadings filed in this case.
- c. The evaluator shall also have access to:
 - i. All therapists of the children and parties;
 - ii. All school and medical records of the children and parties;
 - iii. Any and all psychological testing or evaluations performed on the children or the parties;
 - iv. Any and all teachers/child care providers for the children.
- d. At the request of the evaluator, each party shall execute any and all releases or consents necessary to authorize the evaluator's access to the information described herein. No new clinicians (i.e., therapists, psychologists, social workers etc.) are to work on this case during the course of the evaluation without the consent or authorization of the evaluator, unless otherwise authorized by court order. The services of existing mental health providers may be suspended by the evaluator pending review by the Court.
- e. The parties are informed that the Court is the identified client of the evaluator in this case. The evaluator serves the Court in this case; therefore, neither the parties nor their children are patients of the evaluator. There is no confidentiality relating to the parties' communications with or to the evaluator or concerning the evaluator's activities or recommendations. The evaluator may engage in written or verbal communication with any person he or she perceives capable of providing information relevant to the care and welfare of the child.
- f. The evaluator may request that the parties and/or children participate in adjunct services, to be provided by third parties, including but not limited to physical or psychological examinations, assessment, psychotherapy, co-parenting work, or alcohol and drug monitoring/testing. The Court shall allocate between the parties the cost of any adjunct service.

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- g. The evaluator shall be promptly provided all records, reports, and documents requested and shall receive the cooperation of all parties and counsel involved to ensure that the report is submitted by the date requested. This Order shall act as a release by the parties of all information requested by the evaluator and shall further obligate the parties for any costs associated with the production of those records to the evaluator. Any such costs shall be paid promptly.

5. No Ex-Parte Contact. Counsel shall not have substantive ex-parte discussions with the evaluator, but shall conduct all communication through conference calls or conferences, unless agreed upon otherwise by all counsel. Copies of any documentation provided by counsel or the parties to the evaluator shall concurrently be sent by the providing person to the other side. Copies shall be sent to counsel if the other side is represented by counsel. The evaluator may have ex-parte contact with the Court regarding scheduling matters. This does not prohibit the evaluator from having individual contact with each party in the performance of the evaluation.

6. Fees. The evaluator's fee and costs shall be paid **50% by Father, and 50% by Mother** subject to other and further orders of the Court. Costs shall be paid as directed by evaluator and may be required to be paid prior to the first appointment. In the event any person (including a child) fails to appear at the time of an appointment, the person responsible for the missed appointment shall be obligated to pay any cost associated with the missed appointment.

7. Evidence. The written report of the evaluator may be received in evidence without the necessity of any foundation and without any objection to hearsay statements contained therein or any other objection.

8. Testimony. Each party shall have the right to call the evaluator as a witness. If only one party believes that the evaluator's live testimony is necessary in addition to the written report, that party shall initially be responsible for 100% of the costs incurred in connection with the evaluator testifying at the court hearing, subject to reallocation by the court if appropriate.

9. Immunity. The evaluator acts as a quasi-judicial officer in his or her capacity pursuant to this Order, and as such, the evaluator has limited immunity consistent with the Arizona case law applicable to quasi-judicial officers of the Court as to all actions undertaken pursuant to the Court appointment and this Order. Any alleged impropriety or unethical conduct by the evaluator shall be brought to the attention of the Court in writing.

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IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

/ s / HON. SUSAN BRNOVICH

HON. SUSAN BRNOVICH
JUDGE OF THE SUPERIOR COURT

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.